

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

NANCE M. HUTTER,

Plaintiff

v.

COUNTRYWIDE BANK, N.A., a  
subsidiary of COUNTRYWIDE  
FINANCIAL CORPORATION  
WATERMARK CAPITAL, INC.  
EVOLUTION MORTGAGE INC.

Defendants

Case no. 09-CIV-10092  
(ER) (LMS)

**Gerhard P. Hutter's  
Affidavit in Support of  
Mrs. Hutter's Motion to  
File a Fourth Amended  
Complaint and Join  
Parties**

I, Gerhard P. Hutter, state under oath as follows:

1. I am the husband of Nance M. Hutter, the plaintiff in this lawsuit.

2. During 2006, I had many phone conversations with Todd Matthews, an employee of the mortgage broker Watermark Capital, Inc., concerning the \$1.785 million mortgage loan that Countrywide Bank, N.A. proposed to make to my wife.

**a. Countrywide's bringing Evolution Mortgage into the transaction**

3. In the course of those conversations, Matthews told me that because Watermark Capital was not licensed as a mortgage broker in New York State, Countrywide had arranged for the New York-licensed broker

[Mr. Hutter's Affidavit in Supp. of Motion to File Fourth Am. Complaint]

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Evolution Mortgage Inc. to be the broker of record for Mrs. Hutter's Countrywide loan.

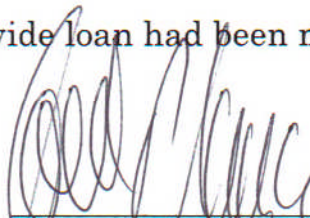
4. Matthews told me tht Countrywide was responsible for bringing Evolution Mortgage into the transaction.

**b. The brokers' failure to tell Mrs. Hutter about their fee-sharing arrangement**

5. At no time before Countrywide made its \$1.785 million loan to Mrs. Hutter on 11 December 2006, did Todd Matthes tell me that Evolution Mortgage planned to share with Watermark Capital, or with Watermark's secretary Charles Dragna, the broker's fees that Evolution would earn from being the broker of record for Mrs. Hutter's Countrywide loan.

6. Nor did Charles Dragna or Joseph Sciacca ever tell me about Watermark and Evolution's fee-sharing arrangement.

7. No one, in fact, told me about the fee-sharing arrangement; I only learned about it years after the Countrywide loan had been made.



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Gerhard P. Hutter

Sworn to before me by  
Gerhard P. Hutter this  
twenty-third day of  
November, 2013



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Notary Public

MARC A. MORIN  
Notary Public, State of New York  
No. 4954253  
Qualified in Westchester County  
Commission Expires August 7, 2014